

REMARKS

STATUS OF THE CLAIMS

Claim 1-27 are pending in the application. Claim 1, 4, 5, 9, 13, 14, 19, 22, and 23 have been amended. Claims 1, 9, and 19 have been amended to more specifically recite the features of the inventions claimed therein. Claims 4, 5, 13, 14, 22, and 23 have been amended to correct typographical errors that resulted in the Examiner's rejection under 35 U.S.C. § 112.

OFFICE ACTION

REJECTIONS UNDER 35 U.S.C. § 112

Claims 4, 5, 13, 14, 22, and 23 stand rejected under 35 U.S.C. § 112 as being indefinite. Typographical errors in the above-listed claims, reflecting incorrect dependencies, caused the informalities described in the Examiner's rejection. These typographical errors have been corrected, and claims 4, 5, 13, 14, 22, and 23 now depend from the correct claims, and have proper antecedent basis for the elements thereof. Applicant believes that these amendments obviate the Examiner's § 112 rejections, and respectfully requests that the rejections be withdrawn.

REJECTIONS UNDER 35 U.S.C. § 102(b)

(1) Claims 1-3, 6, 8-12, 15, 17-21, 24, 26 and 27 are rejected under 35 U.S.C. § 102(b) as being anticipated by *Mantegazza, et al.* (U.S. Patent No. 5,228,504) (hereinafter "Mantegazza"). Applicant respectfully traverses this rejection. Applicant notes that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.

Claim 1 recites "a heat exchanger comprising a phase change material, wherein the phase change material can be configured to extract heat from the air and reduce cycling of the refrigerant system." Mantegazza does not disclose this feature of Claim 1. The Examiner points to element G of Figure 3 as disclosing the phase change material of Claim 1. However, the

“mass of material,” labeled “G,” is described as including “sand, metal powders, cement, agglomerates, hydraulic lines or the like.” Col. 2, lines 45-47. Although this mass is sometimes, in the Mantegazza system, soaked in water, which melts and freezes, this is not the phase change material of Claim 1. The sand, metal powders, etc. do not change phase. Additionally, the phase change material in Mantegazza cannot be “configured to . . . reduce cycling of the refrigerant system.” Thus, at least because Mantegazza does not disclose, teach, or suggest “a heat exchanger comprising a phase change material, wherein the phase change material can be configured to extract heat from the air and reduce cycling of the refrigerant system,” it cannot anticipate Claim 1, and Applicant respectfully requests that the rejections be withdrawn and Claim 1 be allowed. Because claims 2, 3, 6, 8, and 9 depend from Claim 1, claims 2, 3, 6, 8, and 9 should also be allowed, and Applicant respectfully requests their allowance.

Claim 10 recites the step of “using the phase change material to extract heat from the air and to reduce cycling of the refrigerant system.” Mantegazza does not disclose this feature of Claim 10. As stated above in connection with Claim 1, Mantegazza does not disclose, teach or suggest the phase change material or the reduced cycling of the refrigerant system of claim 10, and, at least for this reason, cannot anticipate Claim 10. Applicant respectfully requests that the rejections be withdrawn and Claim 10 be allowed. Because Claims 11, 12, 15, 17, and 18 depend from Claim 10, Claims 11, 12, 15, 17, and 18 should also be allowed, and Applicant respectfully requests their allowance.

Claim 19 recites “a heat exchanger means comprising a phase change material, wherein the phase change material can be configured to extract heat from the air and reduce cycling of the refrigeration means.” Mantegazza does not disclose this feature of Claim 19. As stated above in connection with Claims 1 and 10, Mantegazza does not disclose, teach or suggest the phase change material or the reduced cycling of the refrigerant means of Claim 19, and at least for this reason, cannot anticipate Claim 19. Applicant respectfully requests that the rejections be withdrawn and Claim 19 be allowed. Because Claims 20, 21, 24, 26, and 27 depend from Claim

19, Claims 20, 21, 24, 26, and 27 should also be allowed, and Applicant respectfully requests their allowance.

REJECTIONS UNDER 35 U.S.C. § 103(a)

(1) Claims 4, 5, 13, 14, 22 and 23 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Mantegazza, et al.* (U.S. Patent No. 5,228,504) in view of *Galus, et al.* (U.S. Patent No. 5,228,504). Applicant respectfully traverses this rejection. Because Applicant believes Claims 1, 10, and 19 to be in condition for allowance, as discussed above, Applicant respectfully requests that Claims 4, 5, 13, 14, 22, and 23 be allowed, at least on the basis of their dependency upon an allowable base claim.

(2) Claims 7, 16, and 25 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Mantegazza, et al.* (U.S. Patent No. 5,228,504) in view of *Levenduski, et al.* (U.S. Patent No. 6,393,861). Applicant respectfully traverses this rejection. Because Applicant believes Claims 1, 10, and 19 to be in condition for allowance, as discussed above, Applicant respectfully requests that Claims 7, 16, and 25 be allowed, at least on the basis of their dependency upon an allowable base claim.

CONCLUSION

In view of the foregoing, reconsideration and allowance of the application are believed in order, and such action is earnestly solicited. No extension-of-time fee is believed due.

Should the Examiner believe that a telephone conference would expedite issuance of the application, the Examiner is respectfully invited to telephone the undersigned attorney at 202/861-1554.

Respectfully submitted,

BAKER & HOSTETLER LLP



Ari S. Indik
Registration No. 55,293

Date: 3/28/05
Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036
Tel. 202 861 1500
Fax. 202 861 1783